(3)

NO. 09-121

IN THE

SUPREME COURT OF THE UNITED STATES

Gene Hoy,
Petitioner,

v.

MENTOR TOWNSHIP,
Respondent.

PETITION FOR REHEARING

Gene Hoy
2586 Stitt Rd.
In Propria Persona
P.O. Box 491
Mio, Michigan 48647
989-826-6025

GROUNDS FOR RECONSIDERATION

I've heard that a member of this court once said that he could tell how to rule by reading the first sentence or question. Since I'm not an attorney and find this material difficult to organize, none of my arguments are of that sort. This court has and should take jurisdiction here because of the U.S. and Michigan Constitutions, violations of laws of the United States, the State is a party, and federal moneys through U. S. agencies financed the actions through federal contracts to name a few. According to your rule 44 this is limited to intervening circumstances...or other substantial grounds not previously presented. Some intervening circumstances include further problems in Michigan's lower courts relating to this case and some televised interviews with some members of this court. One of your members said he looked for differences in lower courts – apparently to promote uniformity. I think that conflicts with the constitution and your decisions should suffice.

Facts: The township's attorney told me once prior to a hearing that he was "going to get some costs today Gene." He did. I doubt that he's psychic but I do know he's a member of a special interest group/private club. My last Petition covered some of the inequities. Pg 12 of it mentioned District judge granting more "costs" to the township. The township's attorney then put a garnishment on my bank account. I received forms and properly filed the objections and notice of hearing with the clerk of the court's office. Then I learned my credit union had paid the township. Seems the rules state that a copy of my objections were to be sent by the clerk of the court's office

In your YOUNG case you stated: "It is most true that this court will not take jurisdiction if it should not but it is equally true that it must take jurisdiction if it should. The judiciary cannot, as the legislature may, avoid... With whatever doubts, with whatever difficulties, a case may be attended, we must decide it if it be brought before us. We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the Constitution. Questions may occur which we would gladly avoid, but..." Ex parte YOUNG, 209 U.S. 123, 143 (1907)

Now this sounds really good but I have a couple of questions. I thought my petition was before this court but your interviews revealed that you get 9,000 petitions a year but only 80 get heard, and that is down from 120 to 121 awhile ago. Does that mean 8,920 of us were wrong and, while the productivity of We the People has gone up with computers, etc., why has yours decreased – by so much? With 9,000 incoming you don't have it

To my credit union. They claim they did. Credit union claims they didn't get it. The clerk of the Court's office said I should write the judge to advise of the problem. I did. I mentioned the letter was per the clerk's advice and because I hoped he would remedy the wrong without granting more costs to the township. A letter came back that it had to be done by motion. The case was closed with the statement that township was satisfied. If I try a motion for anything it costs money to do and the "costs" awarded are really penalties/fines for trying to remedy a wrong. The circuit court had said my case no. there wasn't good. It was the one the Township had used and obtained for free. I had to

under control. Since the constitution is to protect We the People's rights (from harm) if you don't jealously guard them with the Constitution, there is more harm and your case load skyrockets. One member mentioned how comfortable his office is and that he'd lit his fireplace there. Then he mentioned that the caseload is read by lawclerks. So I wonder – is this like a doctor's office where the doctor, subject to oath, waits in back while a clerk not subject to any oath arranges a contract, if possible? A comment during the interview was that we are not a court to correct error – because we can't. What are We the people supposed to think? If it had been we only get 20% or even 10% of obvious error, that would be a dismal answer, but zero? The offer was a review by the court. The consideration was the money and compliance with your rules (a little unreasonable) which I did. The acceptance was your cashing the check, distributing it for conference, etc. We don't think the court read the petition. Will you squelch this

buy another. There is another hearing coming and the only question left is what the costs awarded to the township will be. I have no access to justice under the current regime and much of the reason is the flow of money.

When I told a township supervisor that some houses had separate drywells for the kitchen and that at least one of them had water just running on the ground, he laughed. There are several other problems with the connection service that need remedies besides those mentioned in the last petition. (You should read it.) Guess who has to make the repairs! Note too that HUD's CDBG grants were to pay for connection fees only. The townships spent the money as partly shown on pg. 21 of Appendix II contrary to HUD's rules and contracts.

one too? If so, would you like to live in Michigan – knowing these things? I heard it admitted that your building resembles a greek temple, and pleadings pray for relief, and you seem to be unaccountable. Contrast your good fortune to page 43 of Appendix II.

The Clearfield case on pg. 366 helps prove jurisdiction, "...United States disburses its funds..." and on pg. 369 states "The United States does business on business terms." And "It is not excepted from the general rules governing..." CLEARFIELD TRUST CO. v. U.S., 318 U.S. 363 (1942) This is one of several cases that state when a government does a corporate business, it is in the same position as any other person. Now can you explain to me how a corporate township running a proprietary function can win at all levels so far without a case, without an argument, and in derogation of my rights? My name isn't YOUNG but I deserve an answer. The only two words appropriate as response should be "preemptory reversal."

Another case states: "There can be no conception of property aside from its control and use, and upon its use depends its value. Protection to it has been regarded as a vital principle of republican institutions.... Our social system rests largely upon its sanctity, "and that State or community which seeks to invade it will soon discover the error in the disaster which follows."..." Mckenna, Block v. Hirsh, 256 U.S. 135, 165 (1920).

This court has mentioned a "chilling effect" in some decisions. One was in the Overton v. Ohio,

534 U.S. 982 where only 4 justices signed the statement by Breyer, J. The signing should have been unanimous. It can't be called "error" when there's a lot of it like in this instant case and if it's your error there's no excuse for not hearing it. The fourth amendment is clear and this instant case violates it!

The chilling items related in this case are symptoms of a bigger problem – not "error." Searching through that mumbo-jumbo called Michigan's "judicature act" (MCL 600.____ stuff generally), 600.8381 places fines and **costs** assessed by...a judge of the district court...[a portion of it] to the executive secretary of the Michigan judge's retirement system... It goes on to have some sent to the state treasurer and from there a portion goes to the legislative retirement system. (Maybe crime pays after all.) Then 600.8104 defines the District Control unit or funding unit to be county/local government and 600.8202 shows they supplement the District Judges' salary and makes him eligible for judges' retirement. And 600.555 has the circuit court judge getting additional salary "from time to time" by the county board of commissioners. Also 600.171 puts money from the civil filing fees into both legislature's and judges' retirement funds and 600.151a and 600.151b where counties get funds... Further, 600.2529 puts circuit court filing fees into 600.171 and thence to judges' and legislators' retirement funds. Guess where my jury trial fee and filing and motion fees went. The more activity, the more money they make and the fatter their retirement plans. Read pg.s 28 and 29 of my last petition.

Now the Mich. Constitution 63 in Art VI, Sec. 18 allows local government to subsidize (buy) the judges and the Art VI, Sec. 17 seems to condemn their game but is ignored. This isn't fair regardless since you wouldn't want to face that conflict of interest, so HERE'S YOUR CHILLING EFFECT and some reasons for the events related here.

"Circuit courts are constitutional courts, and the jurisdiction conferred by the constitution cannot be diminished by legislative enactment." Attorney General v. Lacy, 180 Mich. 329, 342 (1914) [Art 6 sec. 13] Since there can't be a fair trial or hearing in a Michigan court where a local government is involved due to this conflict of interest, this is another reason why they shouldn't be allowed to condemn/steal property (and for you to hear it). If property needs to be condemned, they should do it constitutionally but now – remember Lord Acton's comment on power?

The townships' actions also violate laws of the United States including 42 USC 1982 and 42 USC 1441. if all citizens...are to have the rights as....enjoyed by white citizens to...**hold**...real and personal property, then I will have a right to hold property too – if you do your job. (I'm one or the other.) Section 1441 declares public policy to be (applicable here by federal grants/loans still outstanding) the goal of a decent home... It continues with "The policy to be followed...hereby established shall be: (3) ...local public bodies shall be encouraged and assisted...lower costs..." etc. The unlawful acts related in this case do just the opposite. Page 222 of Beech Grove Investment

Co. v. Civil Rights Comm. 157 N.W.2d 213, 380 Mich 405 (1968) stated a Michigan commission has no authority in private housing by federal law which I think means if you aren't a fiction (corporation), they can't control you. I'm not a fiction. Their alleged powers are.

It should be noted that one of the "fun" games the Michigan courts like to play is when confronted with several arguments, they choose one to destroy. They simply destroy one and ignore the rest. Then there's nothing to discuss and they won't hear any more. (Fraud – not doing their job). This case hasn't had any discussion of why there might be a problem with any of my arguments. Then, another is to take rulings against artificial "persons" and apply them against a living breathing citizen like me. (Fraud) A third game is to pretend there's a place (district) where people there are mere tenants with no right to self-rule, or even unalienable rights when that gets in the way, then apply those rules on We the People. (Fraud). This doesn't say much for the government who tries it and especially the court that lets it happen. What say ye?

Your KELO v New London, 545 US 469, 480-481 (2005) applies a decision from the district of Columbia (Berman) to a state. There are two problems with this – one being that the District may have actually needed the legislation (unlike here). But that didn't give congress the right to disregard rights of a storeowner (target) which points up the second Problem which is any unfortunate who lived in or owned property in the D.C. had his rights abrogated-alienated-destroyed

without his consent by Art. I, Sec. 8's "To exercise exclusive legislation in all cases whatsoever..." Even if we claim unalienable rights can be ceded for individuals by their state in that designated area (fantastic!) Michigan isn't part of that District so case law, even voluminous or entrenched, doesn't apply, nor do derivative decisions. It's convenient for the government to destroy rights but didn't pg. 499 in Kelo mention the oligopoly in land ownership as injuring the public tranquility? So aren't congress, and now Michigan's local governments oligopolies owning/controlling land with no restraint? Page 504 of Kelo refers to Michigan's Poletown decision as "infamous." It was. Read pg.s 18-19 of my Petition for Certiorari. This instant case proves we're back to infamy/unconstitutionality. Will you conclude that constitutional rights are only exerciseable when convenient, as they apparently have? Proof that the Kelo decision didn't comport with the will of We the People were the constitutional initiatives like Michigan's in response.

Another of your cases states: "First, where government requires an owner to suffer a permanent physical invasion of her property – however minor – it must provide just compensation." Lingle v CHEVRON U.S.A., INC. 544 US 528, 538 (2005) That's constitutional and a description of the easements the public servants gave themselves on my property.

Page 540 of Lingle supra states, "There is no question that the "substantially advances" formula was derived from due process, not takings precedents. Next consider state interest vs. a few

private interests. They aren't the same here and haven't been in some previous cases. The way to solve questions like this was provided by We the People years ago as "...where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved and no fact..." So why do you struggle with these issues instead of insisting on a jury trial?

I'm not an attorney and I haven't been able to ascertain jurisdictional limits to "police powers" (seems courts want to leave it open) so I'll guess – that they apply to government-owned property, to property in commerce (licensed), and where there's an injured party (a nuisance per se or an evil act). My property is mine/private and We the People ordained and established constitutions to outlaw the first plank of the communist manifesto. MCL 324.301(i) states: "Public domain means all land owned by the state or land deeded to the state under state law. And Mich. Constitution in art. 9, sec. 35 shows that natural resources are state owned land. Then Art X, sec. 5 states: "The legislature shall have general supervisory jurisdiction over all state owned lands useful for..." Isn't it time for your Expression unius est exclusio alterius? My property isn't in their licensed commerce, but as pointed out, the townships' proprietary function is.

Supplying natural gas to private customers is a proprietary function similar to supplying sanitary facilities..." Gregory v. City of Kings Mountain, 117 N.C. App. 99, 450 S.E.2d 349 (1994)

"Furthermore, in setting rates for public enterprise services, municipalities act in a proprietary role."

Pulliam v. City of Greensboro, 103 N.C. App. 748, 407 S.E.2d 567 (1991)

Another case explains who is sovereign as; "In Europe the sovereignty is generally ascribed to the Prince; here it rests with the people; there the sovereign actually administers the Government; here never in a single instance;..." Chisholm v. Georgia, 2 US (2 Dallas) 419, 472 (1793). (This is worth reviewing – I lack space here.) So why does government get referred to as a "sovereign" in some of this country's court cases?? If our fundamental laws are changed, we need an explanation as to how and who the principal character is if not We the People.

In this case, there are no allegations of an injured party – and there are none – it's just raw power.

"The traditional test for determining what is a nuisance per se is that the nuisance has become dangerous at all times, and under all circumstances to life, health, or property, the question of such dangerousness being particularly for the jury." 58 Am Jur 2d, Nuisances, sections 16 and 17. Thus we know our private septics weren't nuisances per se since they are still allowed outside of the target area. The state's classification simply means money. If Art IX, Sec. 1, sec. 2, or sections 25 to 31 of Michigan's constitution could be enforced, the state would have to pay for the local government's project if they couldn't instead of low-income victims. They created a nuisance.

Michigan's Campbell v. Judges' Retirement BD. 378 Mich 167 (1966) is relevant to the foregoing. A retired judge sued to get more money. He won

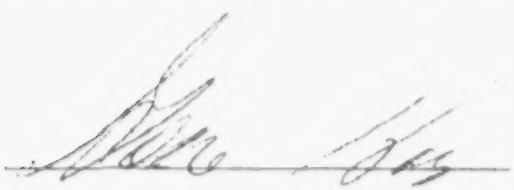
based on Art 1, Sec. 10 – no impairment of contracts. But, he wanted it, the Supreme Court Judges wanted it, and I understand the Attorney General gets it too so conflicts of interest weren't raised. This might make your "infamous" file and notice how high it goes.

The Miranda case (previous petition) contains a quote at pages 479-80 that seems appropriate here where Mr. Justice Brandeis previously observed that government officials shall be subjected to the same rules of conduct as the citizen, that crime is contagious, and that if government becomes a lawbreaker it invites anarchy. He also condemned the end justifying the means. But don't Kelo and this case have that in common?

I think this proves my case but, if you think I've missed something, kindly introduce your own motion for me. These evils are insufferable for many and will only get worse until you act. Would you kindly place this before a justice and urge Certiorari or a reversal?

So the woman asked Ben "What sort of government have you given us?" He replied " A republic, if you can keep it."

What more can I possibly do?



10/30/2009

CERTIFICATION

I believe this Petition complies with your rule – to the best of my knowledge, is presented in good faith and not for delay. No one is representing me because I am me.

10/30/2009

(3)

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APPENDIX III

To be **READ** along with the
PETITION FOR REHEARING

Gene Hoy
2586 Stitt Rd.
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P.O. Box 491
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989-826-6025

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"Information for the Fuehrer
1943 No.

After the birth of her child, a full-blooded Jewess sold her mother's milk to a pediatrician and concealed that she was a Jewess. With this milk babies of German blood were fed in a nursing home for children. The accused will be charged with deception. The buyers of the milk have suffered damage, for mother's milk from a Jewess cannot be regarded as food for German children. The impudent behavior of the accused is an insult as well. Relevant charges, however, have not been applied for so that the parents, who are unaware of the true facts, need not subsequently be worried.

I shall discuss with the Reich Health Leader the racial-hygienic aspect of the case.
Berlin, April 1943"

Source- Document (translated) from Nuremberg Trial.
Purpose- To show that the "public health" excuse has been advanced to "justify" harming people

that the government/ruling class doesn't like for some time now.

Comments/Questions- So if the woman charged (victim) somehow managed an appeal (costs, time, opportunity, etc.) what do you think the appellate courts did? Would they:

1. Claim it was "error" and proclaim a rule that they don't hear errors so she could have her time and money wasted as an additional punishment?
2. Declare the matter to not be "ripe" because she hadn't suffered all the harm that she might by that time?
3. Pretend to hear the matter, then grant "costs" to her opposing party – their employer?
4. Or just pocket the fees and proclaim "Petition Denied?"

Question: So who was the more culpable? – The instigators who executed it or the corrupt court system who went along??

Notes- To rule "errors" can't be heard is to rule the Constitution out of existence which is criminal treason.

Some "Ripe" cases include Dred Scott v. Sanford, the Berman Case, The Kelo case, Overton v. Ohio, and Hoy v. Mentor to name just a few. (How do you say "Ashwander" in German?)

Per the Hoy case, **I CAN'T GO INTO EITHER OF LOCAL GOVERNMENT'S DISTRICT OR CIRCUIT COURTS WITHOUT FIRST PAYING UNNECESSARY FEES AND BEING ASSESSED "COSTS" IN FAVOR OF THEM AS MY ADVERSARY <u>INSTEAD OF JUSTICE</u>.** Why do you aid and abet?

Math: 9,000 apps x $300 each is 2.7 million which, when divided by 80 heard seems to cost

society $33,750 per case. Actually it's much higher. The unnecessary printing costs more than doubles the figures and there are several hundred who can't appeal here for this and other cases.

"ATTENTION: BIG CREEK/MENTOR UTILITY AUTHORITY SEWER SYSTEM CUSTOMERS

Public Act 222 of Public Acts of 2001

In order for a claimant to collect compensation for property damage caused by a sewer backup, the claimant must show that all of the following existed at the time of the event:

(1) The governmental agency was an appropriate governmental agency.

(b) The sewages' disposal system had a defect

(c) The governmental agency knew, or in exercise of reasonable diligence should have known, about the defect.

(d) The governmental agency, having the legal authority to do so failed to take reasonable steps in a reasonable amount of time to repair, correct, or remedy the defect.

(e) The defect was the substantial proximate cause of the event and the property damage or physical injury.

According to Act 222 of Public Acts of 2001, all the following conditions must be met in order for the Michigan municipality to be negligent. A defect means a construction, design, maintenance, operation or repair defect."

Source- The Oscoda County Herald, October 28, 2009

Purpose- To show that Michigan's legislature has granted immunity to their agencies (local officials) by placing impossible burdens of proof on the citizens. Even if it was possible to prove the above, their employee/judge wouldn't hear it.

Compare this and other events related in my petitions (if you read them) with the following:

Field Marshall Goering decreed on 12 Nov. 1938: "Article I.- All damage done due to the indignation of the people at the incitement of international Jewry against National Socialist Germany carried out on 8, 9, and 10, November 1938, on Jewish enterprises and living quarters is to be removed by the Jewish owners immediately. (RGB1. 1938. I. page 1581).
"Article II.- Insurance claims of the Jews of German nationality will be confiscated in favor of the Reich."...

Source: From another government with a judicial branch problem.
Comment: So charging for inflicting damages on someone you don't like isn't new either. It still isn't just or equitable regardless of the badges placed on it. We don't have any public servants either. For public servants to insulate themselves from liability for their negligence/crimes is intolerable in a free society and against public policy.

Further:
The witness Lammers, former Chief of the Reich Chancellory testified as follows [at Nuremberg]:

Q*** Now, you answered Dr. Kubeschok that the subject of sterilization of half-Jews was an alternative to their being moved to the East and that it had been raised by half-Jews themselves in 1942 or prior there to.
A. "Yes, I said so."
He also testified that the Jews were not under any compulsion. He seemed to think that a person was a free agent if he could choose between sterilization and deportation to a concentration camp.

Source: Excerpts from a book on Nuremberg Trials.
Comment: Now does this court think that we the people in the sewer district/targeted area are free agents to choose between forced connections or the alternative (or being run out when we can't pay)? Remember that neither are needed, wanted, affordable (in this low-income area), nor does the force comport with an honest definition of liberty.

"Blanket Search Warrant (1921) 1. A single search warrant that authorizes the search of more than one area.
2. An unconstitutional warrant that authorizes the seizure of everything found at a given location, without specifying which items may be seized."

"Writ of assistance: Hist. In colonial America, a writ issued by a superior colonial court authorizing an officer of the Crown to enter and search any premises suspected of containing contraband.

The attempted use of this writ in Massachusetts – defeated in 1761 – was one of the acts that led to the American Revolution."
Source: Black's Law Dictionary, 9th Ed.
Purpose: In case you forgot.
Comments: These **were** carried out in the colonies and were a large part of the cause of the Revolution. The Constitution corrected the problem – or at least does when enforced. READ the writ on pages 6-7 of Appendix II. Note that it violates the constitution and labels constitutional objections frivolous. There was no probable cause, no oaths stating with specificity anything, and it was done on private property owned by me (innocent of any wrong doing) where the government corporations had no interest.
We are not supposed to be living under feudalism but am I not describing neo-feudalism where these feudal incidents that, if not paid – due to an inability or whatever – lead to the lords' confiscation of the land or ALIENATING PROPERTY RIGHTS?

"Abolition of property in land and application of all rents of land to public purposes."
Source: 1st. plank, Communist Manifesto.
Comment: Our fundamental laws/constitutions and etc. prohibit this. Why do you aid and abet?

"In every stage of these Oppressions We have Petitioned for Redress in... Our repeated Petitions have been answered only by repeated Injury...marked by every act which may define a Tyrant..."

Source: Thomas Jefferson, Declaration (You should read the list of complaints therein.)
Consider these ADDITIONAL FACTS:
Pages 1-3 of the PETITION FOR REHEARING relate some. On Nov. 9th, I had to appear in Circuit Court again to attempt to appeal the unjust "costs" awarded by both courts and to have the unlawful/corrupt contractor's connection charges removed from my tax bills. The circuit court "judge" repeatedly cut off my arguments – right after telling me to proceed with my case. After preventing my arguments, he agreed with Mentor Twp's attorney and had the attorney show me their proposed order he would sign. Apparently these two local government employees had it worked out ahead of time. And, to get a copy, I would have to go buy it from another of their employees – the clerk of the "court." I've already covered their motives. Are you sowing the wind along with them? Your Ex Parte Young covered a large fine to discourage challenging a fiat or decree in one lump. Are you going to pretend that multiple "costs" applied to me don't amount to the same thing? You should also note that the contractor awarded the privilege of connecting us by force is very well "connected" himself. He is on the board of county road commissioners – the same road commission that buys products from his cement company. The Michigan government people don't seem to see a problem. The Mich. Supreme "Court" even denied a motion to enforce the freedom of information act against their Township agency. To give local officials plenary powers over private

property is like giving a child a loaded gun. If the local officials' intent (conspiracy) is to run township and county business as a racketeering enterprise, when will you see a problem?

Please have the justices READ my petitions this time. I want to see if they can find as many constitutional violations as I can.

"But among the Groupe of Hardships which attend their Statute, the first that ought always to be mentioned, and that ought never to be forgotten is "That it was made without our Consent. My Clyent Mr. Hancock never consented to it...Indeed the Consent of the subject to all Laws, is so clearly necessary that no Man has yet been found hardy enough to deny it....[until now]...It is an Hardship therefore, scarcely to be endured that such a penal Statute, should be made to govern a Man and his Property, without his actual Consent and only upon such a wild Chimaera as a virtual and constructive Consent.

"But there are greater Proofs...the Executive Courts by which it is to be carried into Effect, is another. In the...Act 4G.3,c,15, we find that all the forfeitures and penalties inflicted by this or any other Act of Parliament, relating to the Trade and Revenues...in America, ...shall be prosecuted...or in ***any Court of Admiralty***," &c....**Not by a Jury**, **not by the Law of the Land**, but by the **civil Law** and a **Single Judge**..."

Source: Excerpts from J. Seawell v. John Hancock (notes of John Adams.- 1769) [You should read it.] Same-Oh, Same-Oh. Now **SHAME**-Oh!